

transitioning the program in that direction. However, I think we can all agree, that regardless of how these planes are procured, that the United States military needs them and they are demonstrating their value to the warfighter, and to the taxpayer today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. Mr. President, I think we are now ready to begin a conversation. There are several colleagues here, including the Senators from Georgia, Alabama, and Idaho, we would like to discuss this issue we are going to be voting on tomorrow. Our colleagues need to have a clear picture of what we will be voting on.

There are two basic versions of legislation to try to make it easier for agricultural employers to hire people who are temporary workers or who have been in the United States illegally and can be employed under the bills proposed here. There are two different approaches. One is the approach of the Senator from Idaho—I will defer to him in a moment to have him discuss his approach—and the other approach Senator CHAMBLISS and I have offered. There are a couple of key differences. They both approach the problem from the standpoint of broadening the way in which legal immigrants can come to the country and be employed legally in agriculture and taking illegal immigrants who are currently not working within the legal regime, using counterfeit or fraudulent documents—and, everybody knows, being employed illegally—and enabling them to work for a temporary period of time legally in this country.

The primary difference between the approaches is over the question of amnesty. Regarding that, I think everybody would have to admit—and different people have different definitions of what amnesty is—everybody would have to agree, if there is a difference in how you can become a legal, permanent resident in this country or a citizen, you would have to agree, if someone is granted an advantage over an applicant for legal permanent residency or citizenship status in another country, if they are given an advantage because they came here illegally and counterfeited documents to get employment and worked here illegally, to give them an advantage over people who are seeking to come here legally is giving them an advantage that would amount to amnesty. You should not be able to use, in other words, your illegal status to bootstrap yourself into a position of legal, permanent residency or citizenship.

I pointed out before, under the bill of the Senators from Massachusetts and

Idaho, there would be an ability for people not in the United States but who would like to come here to claim they worked in the country illegally, and that would give them an ability to come here and apply for this same status. So, ironically, we would be turning on a neon sign that says come here with documents—they could be fraudulent and you could have defrauded us before—and claim that you worked in the country illegally, and we will let you come back in again.

I don't know how you give people an advantage on the basis they violated our law. You would think you would want to give people an advantage who have played by the rules. That is the second way in which this bill grants amnesty and is not the right approach. As my colleague from Georgia talked about, we would be changing, for the first time, a law to allow the Legal Services Corporation to represent these illegal immigrants, which is something we have not been willing to do in the past. We have to be careful because the reason illegal immigrants are working here is the current H2-A law is so cumbersome to use, it is so subject to abuse and costs money and takes time and you can be sued, and so on, that employers don't like to use it. It is just not worth it to them. If we are going to have a bill that is no easier to use, there is not going to be any advantage over the current law and, as a result, it is going to be difficult for farmers to utilize this new provision if they have to look over their shoulder and wonder if the Legal Services Corporation is going to file a lawsuit.

Mr. CHAMBLISS. Will the Senator yield?

Mr. KYL. Yes.

Mr. CHAMBLISS. Mr. President, I ask the Senator, doesn't the AgJOBS bill, as well as the Chambliss-Kyl amendment, recognize there is a need in this country for agricultural workers to do the job that is not being done by American workers today, and we are not displacing American workers?

Mr. KYL. Mr. President, that is a very good question. I think all of us would agree that we cannot be displacing American workers. We are currently not doing that today. There is a need for these employees, and it is really a question of which approach is the better one, to ensure we can match a willing worker with a willing employer without granting amnesty.

Mr. CHAMBLISS. Would the Senator from Arizona yield for another question?

Mr. KYL. Yes.

Mr. CHAMBLISS. Does the Chambliss-Kyl amendment not take the current H2-A program, which is very cumbersome and requires a lot of paperwork and requires the adverse effect wage rate to be paid, and streamline that program to where it is more easily usable by farmers who now simply don't use it because it is cumbersome? Does it alleviate some of the problems?

Mr. KYL. Yes. We change the wage rate to the prevailing wage. We make

it easier for the farmer to demonstrate that there are not American workers available to do the jobs. We make it easier, cheaper, faster, but with protections for the employees.

I think all of that is why the American Farm Bureau Federation has endorsed our legislation as the best way for them to satisfy these employment needs.

Mr. President, I will close and allow my colleagues the opportunity to speak. Senator CRAIG wants to disagree with us, and I want to give him that opportunity. Let me allow him to describe his bill, and we can have a debate back and forth as to which bill better satisfies our employment needs or requirements but doing so in a way that we can actually get a bill passed and sent to the President; i.e., a bill that doesn't include amnesty.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I appreciate the Senator from Arizona finally coming to the floor with a piece of legislation. For the last several years, I have challenged the Senate to deal with what I believe, and I think most colleagues believe, is a very urgent problem. Our borders, as much money as we have poured into them and as many new border patrolmen as we have put along them—primarily our southern border today—are still being overrun substantially by illegal people crossing.

While we have been trying, since 9/11, to understand and reform our immigration laws, there has been a great deal of talk, but very little done—some 1,300 days now of high-flying political talk about the dramatic problem that we awakened to post-9/11, and that was that there were between 8 million to 12 million undocumented illegal people in our country—most of them here and working hard to help themselves and their families. But it was obvious there were a few here with the evil intent in mind: to destroy our country and to destroy us, too.

While I accept the argument, as most do, that comprehensive immigration reform is critical, right now we have a critical situation in front of us as it relates to agriculture. Starting about 5 years ago, and before 9/11, American agriculture was attempting to get the Congress to look at their plight. The plight was obvious and simple—and criticize it if you will—but the reality was that 50 to 70 percent of their workforce was undocumented, and the law we had given them, as the Senator from Arizona has so clearly spoken to, was so cumbersome, costly, and so untimely—and the key to timeliness is when the crop is in the field and ripe, it has to come out or it rots—that American agriculture could not depend on it. The workforce who was seeking the work in American agriculture began to recognize it. If you will, the black market or the illegal processes began.